



Dale Lee, President
David A. Haney, Executive Director

July 9, 2019

The Honorable Patrick Morrissey
Attorney General of West Virginia
State Capitol Complex, Bldg. 1, Room E-26
Charleston, WV 25305

Re: Notice of Intent to Sue the State of West Virginia
Regarding the Unconstitutionality of HB 206.

Dear Attorney General Morrissey:

Please consider this letter to be a Notice of Intent to Sue made pursuant to West Virginia Code Section 55-17-3 on behalf of the West Virginia Education Association. We believe that we can demonstrate that this legislation is unconstitutional for the following reasons:

- HB 206, taken as a whole, violates the "single object" provision of Article V, Section 30 of the West Virginia Constitution.
- That the Section of HB 206 creating a new West Virginia Code provision 18-5G-1 et seq, establishing Charter Schools, is unconstitutional in that it violates Article XII, Section 1's requirement of a "thorough" public education by diverting money away from the public schools that will still be used to educate the vast majority of West Virginia school children.
- That the new West Virginia Code provision 18-5G-1 et seq. created by HB 206 is unconstitutional in that it violates Article XII, Section 1's requirement of an "efficient" education by diverting public moneys into Charter Schools when many national studies have shown that such schools do no better, and in many case do worse, in educating school children than do existing schools.
- That the new West Virginia Code provision 18-5G-1 et seq created by HB 206 is unconstitutional in that it violates Article XII, Section 2's requirement that the supervision of public schools be vested in the State Board of Education and State Superintendent of Schools by setting up new boards that will create rules governing particular Charter Schools.

-That the new West Virginia Code provision 18-5G-1 et seq created by HB 206 is unconstitutional in that it violates Article XII, Section 10's requirement that voters must approve the creation of a new district or organization by allowing Charter Schools (a new "organization") and by permitting the drawing of attendance boundaries for such schools without voter approval.

-That the amendments to West Virginia Code provision 18A-4-7a violate the "void for vagueness" doctrine in that the new Section (l) requires that all reductions in force be based on qualifications and new Section (m) requires that when there is a reduction of force among professional personnel such decisions are to be made on the basis of seniority, certification, licensure and performance evaluations.

Please know that the WVEA maintains the right to add or subtract from this list before filing suit.

If you have any questions regarding the contents of this letter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Katz". The signature is stylized with a large, bold "K" and a long horizontal stroke extending to the left.

Andrew J. Katz
WVEA General Counsel